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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
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11 PAULA LABRIE, ALFREDO MACIAS,
PETER MILLMAN, TOM CHORTABTIM,
12 RAF SISON,

13 Plaintiffs,

14 vs.

15 UPS SUPPLY CHAIN SOLUTIONS, INC.,

16 Defendant.
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CASE NO. 3:08-CV-03182 PJH

**DECLARATION OF BENJAMIN
BOWER IN SUPPORT OF
DEFENDANT'S MEMORANDUM OF
LAW IN OPPOSITION TO
PLAINTIFFS' MOTION FOR
CONDITIONAL CLASS
CERTIFICATION**

Date: March 18, 2009

Time: 9:00 a.m.

Judge: Honorable Phyllis J. Hamilton

Courtroom: 3, 17th Floor

DECLARATION OF BENJAMIN BOWER

I, Benjamin Bower, hereby declare as follows:

1. I have personal knowledge of the facts set forth in this declaration and, if called upon to do so, could and would testify competently to them.

2. I provide this declaration voluntarily and of my own free will. I have not been promised anything by UPS Supply Chain Solutions, Inc. ("UPS SCS") in exchange for providing this declaration, and have not been threatened or intimidated by UPS SCS in the event I refused to provide this declaration.

3. I have worked for UPS SCS for approximately three years as a driver dispatcher. From February 2006 to present, I have dispatched independent contractor couriers ("drivers") who make deliveries for UPS SCS.

4. I currently work in the Coppell, Texas, dispatching location, and I have dispatched drivers throughout the United States.

5. As a dispatcher, my job is to assign parts to drivers for delivery. Drivers call me when they are available to make deliveries and I place them on a list. When I have parts that must be delivered, I call drivers on the list and ask them if they are able and willing to make deliveries.

6. I do not tell drivers when they have to work. Pursuant to UPS SCS's policies and practices, I allow drivers to decide when they want to work. The drivers that I dispatch do not have standing schedules of availability and do not work predetermined hours or days. In sum, drivers decide when they want to work.

7. I do not require a driver to be in any particular location before I offer him or her a delivery job, and UPS SCS does not require drivers to wait at the warehouse to receive delivery jobs. However, in order to ensure that parts are timely delivered, drivers must be able to get to the warehouse within 15 minutes in order to pick up the parts.

8. I assign delivery jobs on a first-come, first-served basis. I place drivers on a list in the order in which they call to tell me they are available. When a driver's name reaches the top of the list, I call the driver to offer him or her a delivery job. I then allow the driver to decide whether he or she wants to take the job. UPS SCS allows drivers to turn down any job for any reason, and

1 the drivers I dispatch regularly turn down jobs that I offer them.

2 9. The drivers whom I dispatch turn down jobs for many reasons. Some drivers only take
3 long distance jobs, some drivers only take local jobs, and some drivers only take jobs that involve
4 airport deliveries.

5 10. When drivers turn down jobs, I move them to the bottom of the "available" list, and
6 they are eligible to receive other jobs that become available when they return to the top of the list.

7 11. Drivers can decide to wait for other jobs once they have a delivery on board. They do
8 not need my permission to wait for other jobs. It is up to the driver to decide whether he or she
9 can wait for more jobs and still make his or her other deliveries on time.

10 12. I do not tell drivers the route they should take to make deliveries, or the order in
11 which they should make deliveries. Instead, it is up to the driver to decide their route and the
12 order in which they make deliveries.

13 13. Drivers are permitted have other people to make deliveries for them, and I have
14 dispatched jobs to drivers who do so. When drivers have another person make a delivery for
15 them, I dispatch the job to the driver, and he or she can then have another person do the job for
16 them.

17 14. To the best of my knowledge, drivers do not wear uniforms of any kind. The drivers I
18 have observed wore casual street clothes.

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20 I declare under penalty of perjury under the laws of the United States that the foregoing is
21 true and correct.

22 Executed this 19th day of January, 2009, at Coppell, Texas.

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25 BENJAMIN BOWER